

October 13, 2010

The Township Committee met on the above date with the meeting called to order by Mayor Kelly at 7:30 PM. The meeting opened with the flag salute and a moment of silence. Roll call was taken showing present: Mayor Brian J. Kelly, Deputy Mayor Lawrence H. Durr and Committeeman Michael J. Hlubik. Also present were Nancy W. Jamanow, Township Engineer and John C. Gillespie, Township Attorney. The Open Public Meetings Act statement was read and compliance noted.

Mayor Kelly opened the meeting to the public for comments on matters not appearing on the agenda. Valerie Jones of Crosswicks asked Mayor Kelly about the meeting from September about speeding and other issues and if Mayor Kelly has sent out the letter he spoke about. Mayor Kelly responded that he said a variety of issues would be looked into and it would be discussed later in the meeting. Mrs. Jones addressed Mr. Durr about abstaining from Chesterfield LLC and the e-mail which she send and he replied to. His reply did not address where property is as far as block and lot. The Clerk will e-mail the block and lot of the property in question. Mrs. Jones asked Mayor Kelly about the status of the Liptak lawsuit as Dr. Liptak died. Mr. Gillespie responded that the lawsuit was won by Township. Mrs. Jones questioned the cost to Township and was advised to file an OPRA request for that information. Mrs. Jones then asked Mr. Durr about the date of September 30 between 2 and 3 PM at 121 Old York Road. He had pipe delivered to that address by Township trucks. Mr. Durr responded that he is not sure of the date but he hired Lippincott to install under-drains on his property. There were no Township people or trucks. Mr. Durr continued that Greg Lebak may have stopped by in a Township truck to ask a question about road work being done in the Township but he doesn't remember that. Mrs. Jones stated that Mr. Durr should step down from the Township Committee and the Planning Board because of his dealings with the builders. Mr. Hlubik responded to Valerie that just because she states that something is wrong does not make it wrong. She posts innuendo and accusations on the computer. Mr. Durr stated that the issues were tried and thrown out

of court. Valerie doesn't understand the TDR program, it's a nationally recognized program and Mr. Durr briefly explained the program. Valerie read excerpts from a newspaper article concerning statements made by Mr. Durr and stated that she has minutes of a meeting of the Board of Public Utilities where he stated he would only retain one lot. Mr. Durr stated that he has never attended a meeting of the Board of Public Utilities. Valerie continued that the Planning Board gave Mr. Durr more credits on his land so he could make more money. Mayor Kelly explained the TDR credit appeal process as he does not believe that Valerie understands how it works and to ensure that the public does understand. Mr. Gillespie stated that what's being said is part of a lawsuit that was recently dismissed and quoting a newspaper is never a good source. This is not a conversation that the governing body should be having with a large agenda. It's a no win discussion. The same allegations were the subject of a lawsuit against the Township, the Planning Board and certain individuals on the Planning Board which was thrown out. Mrs. Jones stated that she will get the minutes of the meeting of the Board of Public Utilities which Mr. Durr denies attending and asked that he make a deal with her that he will step down from the boards if she doesn't get them. Mayor Kelly stated that other members of the public need to be allowed to speak in this portion of the meeting.

Robert Infantini of 252 Recklesstown Way was present to asked the Committee if they would be willing to sell him the piece of land behind his house. He drew up and presented a survey of the area. Mrs. Jamanow spoke to Mr. Infantini earlier and explained that his lot is on the corner lot of Old York Road and Recklesstown Way. Wetlands begin at the next lot. This will eventually be owned by Township but is currently owned by the developer. A subdivision would be required in order for him to be able to purchase property. Mr. Gillespie stated that if the township were to sell that property it would need to be appraised and must be offered to all parties contiguous to that piece. Mr. Gillespie asked if there are any other similar situations that would compel the Township to offer this in other situations. Mayor Kelly asked about the owner's ability to put up a fence in light of the issues that came up at the

Planning Board. Mr. Infantini stated that he recently put a pool in his back yard and would like to eventually put a fence around the entire area. Mrs. Jamanow stated that, if the Committee were to agree, this will not be a quick process. Mr. Gillespie explained the process and the possibility of how lengthy it may be. Mr. Durr suggested he approach the developer and purchase the property from them. Mr. Gillespie continued that the Township Committee would still have to consent to it because we have an interest in it. Mr. Infantini pointed out that it would be difficult for the Township to access the property to maintain it due to the configuration. Mayor Kelly stated that he does not believe the Committee is resisting the idea, only that there is a process that needs to be followed. Mr. Infantini will speak to the builder. Matt Weismantel stated that this is a common situation throughout the development and could be approached by a number of homeowners for the same reason. The area was originally designed as a cut through for residents. Mrs. Jamanow stated that, in this case, it is just excess land.

Tom Wasilewski of 33 Fenton Lane questioned the no parking in effect between 12 and 26 Fenton Lane and asked if there is a way to abolish the ordinance? Mayor Kelly asked Chief Wilson to explain the reasoning behind the no parking in that area and the Chief stated that the issue is sight distance for the bend in the roadway. Cars parked along the sides of the road forces cars into oncoming lane without being able to see around the bend. Mr. Wasilewski thought it would only be on one side of the street which would make more sense. Mayor Kelly further explained that part of the issue was to alleviate overflow parking from the recreation fields onto Fenton Lane. Mr. Wasilewski continued that he wants the no parking restriction removed and asked what his next step would be. Mayor Kelly replied that the ordinance has just been implemented and the Committee may re-visit the issue in the future when the recreation fields are being fully used. This was done on the recommendation of the Township professionals.

John Ratico of 245 Recklesstown Way received summons for parking a commercial vehicle in the PVD zone. He is a real estate agent and has

commercial tags on his vehicle as a courtesy to his clients who sometimes use the vehicle. He would like to keep the vehicle at his home. Mayor Kelly asked if the vehicle would fit in his garage and Mr. Ratico replied that he has not tried and is not sure. Mr. Gillespie stated that the municipality has the right to limit commercial vehicles in a residential zone. Mayor Kelly added that the Township Committee has no authority to grant relief without amending the ordinance. The remedy would be to see if it fits in the garage. Otherwise, it could be discussed at the Planning Board level. Individual property issues come up frequently at the Planning Board. Mr. Ratico stated that the vehicle cannot see from road unless you are directly in front of his house. Mayor Kelly asked the Clerk to send this matter to the Planning Board for discussion.

Approval of Minutes

The minutes of the September 8, 2010 regular and executive session and September 14, 2010 special meeting were approved on a motion by Mr. Hlubik and second by Mr. Durr. All agreed.

Police Department Report

Chief Wilson reported 275 calls for September and outlined the department training for the month and specific officer training. The Chief reported on the meeting with the residents of Bordentown–Crosswicks Road and Main Street concerning speeding through Crosswicks. He met with Mike Nye of the Burlington County Engineer’s Office who collected data with a traffic recorder placed on roadway to track speed, direction, # of vehicles, etc. On Main Street the attention was on volume and speed. The average daily traffic on Main Street is 4,653 vehicles per 24 hour period. This would cover both directions of travel. The 85th percentile for the average speed was 30 mph, meaning 85% of the vehicles are traveling 30 mph or less. On Bordentown–Crosswicks Road the average daily traffic in 2002 was 1,250 compared to 1,672 cars per day in 2010. the 85th percentile dropped in 2010 from 2002. In 2002 it was 39 mph and in 2010 it is 33 mph. Police presence and enforcement could be responsible for lowering these numbers,

however there are still complaints about speeding. The County is looking at collecting more data and possibly installing traffic calming devices. Rumble strips, speed bumps, painting, etc. will be explored. The Chief also wants to collect data on Church Street to have data to compare to after the installation of any traffic calming devices, to determine if Church Street is being used as a bypass. Mayor Kelly added that speed limits have been lowered and a by-pass road is being discussed to mitigate these problems. Valerie Jones stated that since school started, kids are jogging along roadway and the cars are zinging by them. A police car should be out there then.

Township Engineer

Mrs. Jamanow presented a proposal for the pedestrian path from the recently constructed bridge to the school site. The engineering will be done in conjunction with the school's engineer. The proposal totals \$24,000 for the engineering, bid specs, and construction observation. This project would go out to bid. The Clerk stated that she needs to check for available funds for the Engineer to get started. On a motion by Mr. Durr and second by Mr. Hlubik, the Engineer was authorized to proceed subject to the availability of funds.

Ordinances for Public Hearing

The public hearing on Ordinance 2010-15 was opened on a motion by Mr. Hlubik and second by Mr. Durr. The changes in this ordinance were explained by Mayor Kelly and Mrs. Jamanow. Mr. Ratico of Recklesstown Way asked how this will affect his lot as he is a corner with a paper street that will be built by Renaissance. Mrs. Jamanow explained. Hearing no further comments, the public hearing was closed on a motion by Mr. Hlubik and second by Mr. Durr. Mr. Gillespie drew the Committee's attention to (m) and suggested the wording be changed to read "Fence types and styles not otherwise discussed herein shall be subject to review and approval". Ordinance 2010-15 AN ORDINANCE AMENDING SECTION 130-83(E)(9) OF THE CODE OF THE TOWNSHIP OF CHESTERFIELD ENTITLED "FENCES, YARDS AND GARDENS" was finally adopted with the

amended wording on a motion by Mr. Hlubik and second by Mr. Durr. All agreed.

Resolutions

Resolution 2010-10-1 was approved on a motion by Mr. Hlubik and second by Mr. Durr. All agreed.

RESOLUTION 2010-10-1

RESOLUTION AUTHORIZING APPLICATION TO THE BURLINGTON COUNTY BOARD OF CHOSEN FREEHOLDERS FOR THE MUNICIPAL PARK DEVELOPMENT PROGRAM

WHEREAS, the Burlington County Board of Chosen Freeholders has approved the Open Space, Recreation, Farmland and Historic Preservation Trust Fund (“Trust Fund”) and established a Municipal Park Development Program (“Program”) to provide grant funds in connection with municipal acquisition of lands for County park, recreation, conservation and farmland preservation purposes, as well as for municipal public park and recreation development purposes; and

WHEREAS, the Township Committee of the Township of Chesterfield desires to obtain County Municipal Park Development Program funds in the amount of \$250,000.00 to fund the Village Square Park Improvements at 23 Thorn Lane, Block 202.06 Lot 1 in Chesterfield Township; and

WHEREAS, the total cost of the project including all matching funds is estimated to be \$630,000.00; and

WHEREAS, the Township of Chesterfield will be the owner of and have control of the project site prior to the execution of the grant agreement;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chesterfield that:

1. Bonnie J. Haines, Township Clerk is authorized to (a) make an application to the County of Burlington for Municipal Park Development Funds, (b) provide additional application information and furnish such documents as may be required for the Municipal Park Development Program and (c) act as the municipal contact person and correspondent of the above named municipality.
2. The Township of Chesterfield is committed to this project and will provide the balance of funding necessary to complete the project on the form of non-county matching funds as required in the Policy and Procedures Manual for the Program; and
3. If awarded a grant by the County of Burlington under the Municipal Park Development Program, the municipality will use the approved funds in accordance with the Municipal Park Development Program Policy and Procedure Manual, and applicable federal, state, and local government rules, regulations and statutes thereto; and
4. Bonnie J. Haines, Township Clerk is hereby authorized to sign and execute any required documents, agreements, and amendments thereto with the County of Burlington for the approved Funds; and
5. This Resolution shall take effect immediately.

Resolution 2010-10-2 A RESOLUTION AUTHORIZING SHARED SERVICES AGREEMENT WITH BURLINGTON COUNTY FOR CENTRAL COMMUNICATIONS 9-1-1 SERVICES was tabled on a motion by Mr. Hlubik and second by Mr. Durr at the request of Mr. Gillespie. There are two issues in the agreement that he is not comfortable with and has asked Chief Wilson to check into. The agreement asks the Township to agree to an indemnification policy without any details as to the policy and to make room available for dispatch purposes when necessary.

Resolution 2010-10-3 was approved on a motion by Mr. Hlubik and second by Mr. Durr. All agreed.

**RESOLUTION 2010-10-3
RESOLUTION APPOINTING ELECTRIC SUB-CODE OFFICIAL**

WHEREAS, Anthony Moore's employment with the Township was terminated as of July 28, 2010; and

WHEREAS, Mr. Moore was serving a four year term with an expiration date of May 25, 2013; and

WHEREAS, the Township Committee deems it necessary to fill the unexpired term; and

WHEREAS, Marcel Renson has been serving in this capacity on a temporary basis; and

WHEREAS, the Township's Construction Official has requested this position be filled and has recommended the appointment of Mr. Renson to this position; and

WHEREAS, Mr. Renson possesses the required qualifications to serve in this position;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chesterfield in the County of Burlington and State of New Jersey that Marcel Renson of Toms River, New Jersey is hereby appointed as the Township's Electric Sub-Code Official, effective August 19, 2010 to fill an unexpired term which expires May 15, 2013.

Resolution 2010-10-4 was approved on a motion by Mr. Hlubik and second by Mr. Durr. All agreed.

**RESOLUTION 2010-10-4
RESOLUTION APPOINTING ELECTRIC INSPECTOR**

WHEREAS, Anthony Moore was appointed as the Township's Electric Inspector for a one year term at the Reorganization Meeting held January 4, 2010; and

WHEREAS, Mr. Moore's employment with the Township was terminated as of July 28, 2010; and

WHEREAS, the Township deems it to be in the best interest of the residents to fill this position; and

WHEREAS, Marcel Renson possesses the necessary qualifications and has been serving in this capacity on a temporary basis; and

WHEREAS, the Township's Construction Official has recommended the appointment of Mr. Renson to this position;

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Chesterfield in the County of Burlington and State of New Jersey that Marcel Renson of Toms River, NJ is hereby appointed as the Township's Electric Inspector effective August 19, 2010 to fill an unexpired term ending December 31, 2010

Resolution 2010-10-5 was presented and explained by Mrs. Jamanow. Mr. Hlubik questioned the tree plantings in this area. Mrs. Jamanow explained that this bond reduction does not include a reduction for trees. All of the vegetation will remain bonded. Mr. Hlubik has a serious concern about the tree growth that is being lost because the trees keep dying and asked if there is any obligation to maintain the trees instead of allowing them to die and replacing them. When they are replaced, shouldn't they be replaced with larger trees, the size the trees would have been had they not been allowed to die. Mr. Gillespie will check into the matter.

RESOLUTION 2010-10-5

**RESOLUTION AUTHORIZING PERFORMANCE GUARANTEE REDUCTION
3 FOR K. HOVNANIAN L.L.C. FOR A PROJECT KNOWN AS HERITAGE
AT OLD YORK VILLAGE PHASE IV**

WHEREAS, K. Hovnanian, L.L.C., the developer of a project known as Heritage at Old York Village has posted a Performance Guarantee covering improvements to be constructed at said development; and

WHEREAS, the developer has applied for a reduction of the bonded amount pursuant to *N.J.S.A. 40:55D-53(d)* and *(e)*; and

WHEREAS, the Township Engineer has reported to the Township Committee that a portion of the site improvements have been completed in a satisfactory manner in accordance with the requirements of the Chesterfield Township Ordinance and has indicated that the developers bond may be reduced; and

WHEREAS, the Township Committee determines it to be appropriate to permit the Performance Guarantee reduction as authorized and required by the New Jersey Municipal Land Use Law, *N.J.S.A. 40:55D-1 et. seq.*;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chesterfield in the County of Burlington and State of New Jersey, upon recommendation of the Township Engineer and pursuant to the Municipal Land Use Law, that the current Performance Guarantee for Heritage at Old York Village, Phase IV, previously reduced to Six Hundred Ninety-Nine Thousand One Hundred Sixty Five Dollars and Sixty Cents (\$699,165.50) is hereby further reduced in the amount of Two Hundred Fifteen Thousand One Hundred Fifty Nine Dollars and Forty Cents (215,159.40), thereby leaving a balance of Four Hundred Eighty Four Thousand Six Dollars and Twenty Cents (\$484,006.20);

BE IT FURTHER RESOLVED that, in accordance with the requirements of the Chesterfield Township Code, Chapter 130, Section 115, ten percent (10%) of said guarantees are to be posted in the form of cash, twenty-five percent (25%) shall be by way of an irrevocable letter of credit issued in favor of the Township on a form acceptable to the Township Attorney, and the balance shall be posted by way of a Performance Bond;

BE IT FURTHER RESOLVED by the Township Committee of the Township of Chesterfield that this reduction in the developer's bonding obligation is conditioned upon the payment of all fees incurred by the municipality to the Engineer or other professionals in connection with any

inspections and/or reports concerning the improvements covered by said guarantee; and further that the reduction in guarantee be accomplished in a pro rata fashion such that the cash component, letter of credit component and the performance bond component shall all be reduced commensurately.

Resolution 2010-10-6 was presented and Mr. Hlubik asked about the trees in this area as well. Mr. Gillespie stated that, to the extent that the overall reduction includes components 32,33,34,35, they should be removed and the reduction should be modified. The request should be denied until Mrs. Jamanow can re-do the calculation. Mrs. Jamanow will review and the Committee will re-visit later in the meeting.

Resolution 2010-10-7 was approved on a motion by Mr. Durr and second by Mr. Hlubik. Mr. Hlubik asked Kyle if the Department has sufficient body armor. Kyle explained that it is replaced on a rotation in conjunction with the grant award. The vote on the resolution was unanimous.

RESOLUTION 2010-10-7

RESOLUTION AUTHORIZING INSERTION OF SPECIAL ITEM OF REVENUE INTO THE 2010 MUNICIPAL BUDGET

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue into the budget of any County or Municipality when such items shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriations for equal amount; and

WHEREAS, pursuant to *N.J.S.A. 40A:4-87*, the monies received will be inserted into the 2010 Municipal Budget as a special item of revenue as follows:

REVENUE TITLE:

Miscellaneous Revenues – Public and Private Revenues Offset
With Appropriations: Body Armor Fund \$ 1,288.47

APPROPRIATION TITLE:

Public and Private Programs Offset by Revenues:
Body Armor Fund \$ 1,288.47

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Chesterfield in the County of Burlington and State of New Jersey hereby request the Director of the Division of Local Government Services to approve the insertion of an item of revenue into the budget of the year 2010 in the amount of \$ 1,288.47

Resolution 2010-10-8 was approved on a motion by Mr. Durr and second by Mr. Hlubik. All agreed.

RESOLUTION 2010-10-8

***RESOLUTION AUTHORIZING ACCEPTANCE OF DEDICATION OF LAND
PURSUANT TO PLANNING BOARD APPROVAL CONFIRMING
ALLOCATION***

WHEREAS, K. Hovnanian, the Developer of Chesterfield Downs, has offered for dedication to the Township certain property known as Block 202.06 Lot 1, comprising the “Village Square” within the Chesterfield Downs development; and

WHEREAS, K. Hovnanian has offered a dedication of the property at an early stage so that the Township can begin its construction of the park, and pursuant to the approvals granted by the Planning Board, K. Hovnanian must also make its cash contribution in the amount of \$66,734.88, a sum determined by the Township Engineer to be

equivalent to that amount of money which K. Hovnanian would have had to expend in improving the park on its own as would have otherwise been required under Township Ordinances; and

WHEREAS, the Township Committee is desirous of accepting the dedication of the land and the monies, which will be deposited in the Township's recreation trust fund; however, the acceptance of this land and these monies does not otherwise relieve K. Hovnanian of any other requirements for improvements reflected in the performance bond/letters of credit/cash performance guarantees previously deposited as a result of the improvements required to be made by K. Hovnanian pursuant to the aforementioned approvals;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chesterfield, County of Burlington and State of New Jersey that the Deed to the property known as Block 202.06 Lot 1 comprising the "Village Square" property, within the Chesterfield Downs subdivision, be and same is hereby accepted, and the Township Clerk and/or Solicitor are hereby directed to record said Deed with the Burlington County Clerk's Office;

BE IT FURTHER RESOLVED that the sum of \$66,734.88 is being contributed by K. Hovnanian pursuant to the aforementioned approvals as a sum equivalent to the expenditures they would have made had they built the improvements in the park themselves, is hereby accepted and shall be deposited in the Township's Recreation Trust Fund.

Resolution's 2010-10-9, 2010-10 and 2010-10-11 were all approved on a motion by Mr. Durr and second by Mr. Hlubik. All agreed.

RESOLUTION 2010-10-9

**RESOLUTION AUTHORIZING REFUND OF
PROPERTY TAX OVERPAYMENTS**

WHEREAS, K Hovnanian @ Chesterfield, LLC made quarterly tax payments for multiple properties; and

WHEREAS, the tax payments received created overpayments on the properties as follows:

Block 107.08	Lot 4	\$ 56.97
Block 107.09	Lot 1	\$ 56.52
Block 107.17	Lot 10	\$967.60
Block 107.19	Lot 1	\$ 59.72
Block 202.28	Lot 1	\$207.22
Block 202.41	Lot 13	\$257.14
Block 202.43	Lot 1	\$ 57.63
Block 202.31	Lot 1	\$600.37
Block 107.09	Lot 2	\$616.49
Block 107.10	Lot 3	\$620.51
Block 107.15	Lot 6	\$625.55
Block 107.16	Lot 4	\$627.56

WHEREAS, the total overpayments made by K Hovnanian @ Chesterfield LLC is \$4,753.28.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chesterfield in the County of Burlington and State of New Jersey that the Tax Collector is hereby authorized to refund the overpayment in the amount of \$4,753.28 to K Hovnanian @ Chesterfield LLC.

RESOLUTION 2010-10-10

**RESOLUTION AUTHORIZING REFUND OF
PROPERTY TAX OVERPAYMENTS**

WHEREAS, CoreLogic made quarterly tax payments for multiple properties; and

WHEREAS, the tax payments received created overpayments on three properties; and

WHEREAS, the overpayments are as follows:

Block 901	Lot 2.02	\$2,533.98
Block 106	Lot 11	\$4,766.78
Block 901	Lot 3.05	\$2,915.58

WHEREAS, the total overpayment made by CoreLogic is \$10,216.34.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chesterfield in the County of Burlington and State of New Jersey that the Tax Collector is hereby authorized to refund the overpayment in the amount of \$10,216.34 to CoreLogic.

RESOLUTION 2010-10-11

**RESOLUTION AUTHORIZING REFUND OF
PROPERTY TAX OVERPAYMENT**

WHEREAS, Linear Title & Closing made a tax payment for Block 202.13 Lot 4 owned by John & Michelle Raymond; and

WHEREAS, the tax payments received created overpayment in the amount of \$2,581.95; and

WHEREAS, the title company has requested the overpayment be refunded to the homeowner.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chesterfield in the County of Burlington and State of

New Jersey that the Tax Collector is hereby authorized to refund the overpayment in the amount of \$2,581.95 to John & Michelle Raymond.

Resolution 2010-10-12 was tabled on a motion by Mr. Durr and second by Mr. Hlubik at the request of Mr. Gillespie. Mr. Gillespie has just learned that K. Hovnanian has already filed the Deed transferring the Village Square property to the Township without the Township reviewing the Deed or giving their consent. He would like time to further review the Developer's Agreement. Resolution 2010-10-12 RESOLUTION AUTHORIZING DEVELOPERS AGREEENT WITH K. HOVNANIAN HOMES FOR A PROJECT KNOWN AS CROSS CREEK, PHASE II AT BLOCK 202 LOT 32 was tabled for further review by from Mr. Gillespie.

The Committee returned to Resolution 2010-10-6. Mrs. Jamanow explained that the maximum amount a bond can be reduced is 70%. Based on work completed, which was in excess of 70%, this bond reduction is at the maximum of 70%. If the landscaping were removed, it would still be at the maximum amount. The reduction amount it still the same, however she will amend the landscaping items to remain bonded at 100%. Resolution 2010-10-6 with the amendment was approved on a motion by Mr. Hlubik and second by Mr. Durr. All agreed.

RESOLUTION 2010-10-6

RESOLUTION AUTHORIZING PERFORMANCE GUARANTEE REDUCTION # 4 FOR K. HOVNANIAN L.L.C. FOR A PROJECT KNOWN AS HERITAGE AT OLD YORK VILLAGE PHASE V

WHEREAS, K. Hovnanian, L.L.C., the developer of a project known as Heritage at Old York Village has posted a Performance Guarantee covering improvements to be constructed at said development; and

WHEREAS, the developer has applied for a reduction of the bonded amount pursuant to *N.J.S.A. 40:55D-53(d)* and *(e)*; and

WHEREAS, the Township Engineer has reported to the Township Committee that a portion of the site improvements have been completed in a satisfactory manner in accordance with the requirements of the

Chesterfield Township Ordinance and has indicated that the developers bond may be reduced; and

WHEREAS, the Township Committee determines it to be appropriate to permit the Performance Guarantee reduction as authorized and required by the New Jersey Municipal Land Use Law, *N.J.S.A. 40:55D-1 et. seq.*;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chesterfield in the County of Burlington and State of New Jersey, upon recommendation of the Township Engineer and pursuant to the Municipal Land Use Law, that the current Performance Guarantee for Heritage at Old York Village, Phase V, previously reduced to Four Hundred Sixty Thousand Five Hundred Thirty Seven Dollars and Twenty Cents (\$460,537.20) is hereby further reduced in the amount of One Hundred Fifty Thousand Forty One Dollars and Seventy-Six Cents (150,041.76), thereby leaving a balance Three Hundred Ten Thousand Four Hundred Ninety Five Dollars and Forty-Four Cents (\$310,495.44).

BE IT FURTHER RESOLVED that, in accordance with the requirements of the Chesterfield Township Code, Chapter 130, Section 115, ten percent (10%) of said guarantees are to be posted in the form of cash, twenty-five percent (25%) shall be by way of an irrevocable letter of credit issued in favor of the Township on a form acceptable to the Township Attorney, and the balance shall be posted by way of a Performance Bond;

BE IT FURTHER RESOLVED by the Township Committee of the Township of Chesterfield that this reduction in the developer's bonding obligation is conditioned upon the payment of all fees incurred by the municipality to the Engineer or other professionals in connection with any inspections and/or reports concerning the improvements covered by said guarantee; and further that the reduction in guarantee be accomplished in a pro rata fashion such that the cash component, letter of credit

component and the performance bond component shall all be reduced commensurately.

Discussion

Amendments to Section 130-83(13)(e) concerning flag poles – Mr. Gillespie stated that there are issues he would like to review before the Township can take any action or have a discussion. He would like time to look into it. Mr. Durr stated that he feels that flag poles should be allowed and he is not trying to limit the use. Mr. Gillespie further explained the issues that arise with the size of flags and the size of the flagpole necessary to support the flag and the UCC issues that come into play. Mr. Durr reiterated that he is in support of allowing flagpoles.

Cell tower bids – the Township received a 45 day extension from both bidders. Mr. Gillespie explained the differences in the two bids presented and the exceptions taken. The offer from Wireless edge is a little better. Neither bidder wants to pay property taxes. Mayor Kelly explained to the audience the history of this process. Bob Schoen asked about the cell tower that was supposed to be put up down the road. Mayor Kelly explained that they did not follow up and never returned. On a motion by Mr. Durr and second by Mayor Kelly, Resolution 2010-10-13, awarding the contract to Wireless Edge for a monopole @ \$2,456.00 per month rent was approved. Mr. Hlubik was opposed.

RESOLUTION 2010-10-13

RESOLUTION AWARDING BID FOR 2,500 SF LEASE ON TOWNSHIP PROPERTY DESIGNATED AS BLOCK 600 LOT 14.03 ON THE TOWNSHIP TAX MAP FOR THE CONSTRUCTION OF A TELECOMMUNICATION TOWER NOT TO EXCEED 160 FT., INSTALLATION OF ONE CELLULAR ANTENNA ARRAY, AND TELECOMMUNICATIONS COMMUNICATIONS EQUIPMENT/SHELTER

WHEREAS, the Township of Chesterfield authorized the leasing of 2,500 sf area for property designated as Block 600, Lot 14.03 on the Chesterfield Township Tax Map for the construction of a telecommunication tower not to exceed 160 ft., installation of a cellular antenna array and telecommunication equipment and/or shelter building; and

WHEREAS, the Township of Chesterfield received bids for this project on July 20, 2010; and

WHEREAS, the bid submission of Wireless EDGE complied with all material aspects of the bid specifications as prepared by the Township;

NOW, THEREFORE, BE IT RESOLVED by the Township of Chesterfield that Wireless EDGE is hereby awarded the bid for a 2,500 sf lease area for the construction of a telecommunication tower not to exceed 160 ft., installation of one cellular antenna array, and installation of communications cabinets and/or shelter building on property designated on the Chesterfield Township Tax Map as Block 600 Lot 14.03.

BE IT FURTHER RESOLVED that the 160 ± ft. telecommunication tower, communications cabinets and/or shelter building be in accordance with the Township's bid specifications, and subject to all local, County, State and Federal regulatory approvals, as applicable.

BE IT FURTHER RESOLVED that the Mayor and Township Clerk are hereby authorized and directed to execute any and all agreements in furtherance of this bid award, provided that the terms and conditions of said agreements are satisfactory to the Township Solicitor.

Naming of Parks in Old York Village – Mr. Durr stated, and the Committee agreed that the park names should be based on the streets. The Clerk will have name suggestions for the next meeting.

Speed limit on Church Street from bridge to Main Street – A resident has requested that the speed limit in this area be lowered from 35 to 25. Chief Wilson stated that he and Kyle are looking at that intersection with the speed studies being done.

Amendments to Personnel Policy / background checks – The Clerk explained that she is currently in the process of making some amendments to the personnel policy to include some items that the JIF requires and they suggest, but do not mandate, background checks for certain employees. The Committee was asked if they would like to institute this policy and, if so, for which employees? Chief Wilson explained the process and the cost involved which depends on the extent of the check. Mr. Gillespie stated that there are no guarantee that there won't be problems with someone whose background check comes back clean. This requirement could be started at a certain date and not required of existing employees. Mr. Durr stated that the Township is giving money to athletic programs and feels there is an obligation to make sure there are no issues. Chief Wilson added that the background check could give a false sense of security unless it's done annually. Mayor Kelly would like the various options available for background checks from Kyle. Mr. Durr suggested checking with JIF to see if they have a program.

Proposed Change to Saddle Way – as a result of the fire at the new school, it's necessary to re-visit the configuration of the roadway in front of the school to allow for emergency vehicles. The Planning Board has asked the Township Committee to consider option # 4 in Nancy Jamanow's letter which reduces the center island to 5feet. The Planning Board has changed the 5 feet to 6 feet. The Fire Commissioners also recommended keeping the island in this area. Mr. Gillespie questioned the cost estimate for option 4 and what will change going from 5 to 6'?

Mrs. Jamanow stated that the cost will drop, but not significantly. The Township cannot make the change at this time as we do not own the road. If the developer makes the change it will require an amended site plan application. If we wait until road is dedicated, we can just change it. Mr. Durr stated that it is foolish to have the developer put the final coat of asphalt on the roadway if we are going to tear it up. Mrs. Jamanow has had conversation with the developers about contributing the cost of the top course paving to the township. Mrs. Jamanow further stated that the cost estimate was prepared based on the Township having the work done at prevailing wage. Mr. Gillespie added that the cost would be significantly lower if the developer did the work via an amended site plan and the Township contributed towards that work. That approach should be discussed with the developers to gauge their interest.

Crossing Guard Ad – There will be three positions and Chief Wilson would like to hire four to have a substitute. The School is set on opening in January and background checks and training must be done. All resumes and applications will go to Kyle for review.

Underage drinking ordinance – Chief Wilson explained that situations with noise and neighbor disputes have arisen and he thought this Ordinance may help address some of those issues. The Committee will review the proposed ordinance and would like it to appear on a future agenda.

Request from School for fee waiver – On a motion by Mr. Durr and second by Mr. Hlubik, the request for a waiver of fees associated with a variance application fee was approved. All agreed.

Payment of Bills

The bill list, with the addition of the check for Giberson Plumbing and Excavation which was removed from a previous list was approved on a motion by Mr. Hlubik and second by Mr. Durr. All agreed.

Mayor Kelly once again opened the meeting to the public for comments. William Spedding of 75 Recklesstown Way wanted the Committee to be aware of the nuisance and environmental issues existing at the large retention pond area. Hundreds of geese reside on that pond 24 hours a day and have begun to wander from the pond across the street onto resident's properties. Mrs. Jamanow stated that she has visited the area and it is a problem. There is geese fencing that could be installed. Mr. Spedding brought this to the Township's attention knowing the Township will eventually own that area and will inherit the problem. He added that in South Brunswick, they let the vegetation grow wild around the edges of the pond. The geese won't land if they can't exit the water. The Township Committee thanked him for reporting the problem and will look into it.

Hearing no other comments, the Committee approved Resolution 2010-10-14 to enter Executive Session for the purpose of discussing matters related to litigation with the Turnpike Authority on a motion by Mr. Durr and second by Mr. Hlubik. All agreed. The Committee entered Executive Session at 10:15 PM.

The Committee resumed open session at 10:47 PM.

On a motion by Mr. Hlubik and second by Mr. Durr, Mr. Gillespie was authorized to have discussions with the Turnpike Authority and Deputy Attorney General as discussed in closed session.

Mayor Kelly has been asked by Brian Meincke, School Board President why the school is being required to obtain a variance from the Planning Board for their sign. The Clerk responded that the information she received indicated that they wished to erect a lighter, LED sign which is not allowed in the PVD zone. That was not the understanding of Mayor Kelly as to the type of sign being requested. Mrs. Jamanow will check into the matter.

Concerning the issue with the lights in the overflow parking lot, the School Board has decided it will not be cost effective to activate the lighting by a separate switch rather than having them activated with the street light so they have decided not to install the lights at all. Mrs. Jamanow will have another conversation with Dave Fraytak on this matter.

On a motion by Mr. Durr and second by Mr. Hlubik, the meeting was adjourned at 10:55 PM. All agreed.

Respectfully submitted,

Bonnie J. Haines, RMC
Township Clerk